

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

AMY J. SOPKO,	:	CASE NO. 4:10-CV-0377
Plaintiff,	:	
v.	:	OPINION & ORDER
MICHAEL J. ASTRUE,	:	[Resolving Doc. No. <u>6</u>]
Commissioner of Social Security,	:	
Defendant.	:	

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On February 19, 2010 Plaintiff Amy Sopko filed *pro se* a complaint seeking judicial review under 28 U.S.C. § 405(g) of the Defendant Commissioner of Social Security's decision to deny her disability benefits. The matter was referred to Magistrate Judge Benita Y. Pearson pursuant to Local Rule 72.2. On November 18, 2010 Magistrate Judge Pearson issued a Report and Recommendation recommending that this Court dismiss the case without prejudice for lack of prosecution. [Doc. 6.]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. 28 U.S.C. § 636(b)(1)(C). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; Fed. R. Civ. P. 72(b)(2). Failure to object within this time waives a party's right to appeal the district court's judgment. *Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. See *Thomas*, 474 U.S. at 149.

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In this case, neither party has objected to the Magistrate Judge's recommendation. Moreover, having conducted its own review of the record and the parties' briefs (or lack thereof), the Court agrees with the recommendation of Magistrate Judge Pearson that the case be dismissed without prejudice for want of prosecution. Plaintiff did not serve the Defendant, did not issue a summons for service, and did not file a brief on the merits "despite the Courts numerous efforts informing the Plaintiff to do so." [[Doc. 6 at 1.](#)]

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Pearson's Report and Recommendation and incorporates it fully herein by reference, and **DENIES** Plaintiff Sopko's complaint. Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\); Fed. R. App. P. 22\(b\).](#)

IT IS SO ORDERED.

Dated: December 6, 2010

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE